GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Sri Parabathina Mothilal, S/o Luthar Binny @ Venkaiah, Occ: Development Officer, LIC, R/o Prakasam District, against the proceedings No.Rc.C4/559/2007, dated 17.11.2008 of the District Collector, Prakasam, under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Appeal Petition dismissed – Orders -Issued.

SOCIAL WELFARE (TW.CV.2) DEPARTMENT

G.O.Ms.No.100 Dated:02.07.2018

Read the following:

1. Proceedings of the District Collector, Prakasam, No.Rc.C4/559/2007, dt. 17.11.2008.
2. Appeal petition filed by Sri Parabathina Jawaharlal S/o Luther Binny, Occ: Development Officer, LIC, Prakasam District, through his counsel on 17.12.2008.
3. Govt.Memo.No.11992/CV2/2008, dated 02.01.2009.
4. From the District Collector, Prakasam District, Lr.No. Rc.C4/662/2008, dated 29.10.2014.
5. Govt. Memo. No.11992/CV2/2008, dated 01.05.2018.
6. Documents filed by the appellant before the Appellate Authority on 19.05.2018.

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ORDER:

In the reference 1st read above, the District Collector, Prakasam has issued orders cancelling ST-Konda Kapu caste certificate obtained from the then Mandal Revenue Officer, Chirala in the year 1992 by Sri Parabathina Mothilal, S/o Luthar Binny @ Venkaiah.

2. In the reference 2nd read above, Sri Parabathina Mothilal, S/o Luthar Binny @ Venkaiah, has filed an Appeal Petition before the Government, against the Proceedings of the District Collector, Prakasam. After examining the said Appeal Petition, Government have admitted the Appeal Petition and called for the parawise remarks and connected records from the District Collector, Prakasam in the reference 3rd read above.

3. In the reference 4th read above, the District Collector, Prakasam has furnished the Parawise remarks and the connected records on the Appeal Petition filed by Sri Parabathina Mothilal, S/o Luthar Binny @ Venkaiah.

4. The said Appeal Petition has been posted for hearing on 19.05.2018 and the same has been informed to the Appellant and the Counsel for the Appellant in the reference 5th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government. The appellant & brother of the appellant have attended the hearing on 19.05.2018 and argued the case and filed documents in support of his ST-Konda Kapu community claim before the Appellate Authority.

5. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant/ the parawise remarks submitted by the District Collector, Prakasam and proceedings of the District Collector, Prakasam dated 17.11.2008, the Appellate Authority is observed that :

I. The appellant in his grounds has stated that appellant's family and his relatives both maternal and paternal side were recognized as ST-Konda Kapu. Further he has stated that his grandfather Anka Dora migrated from Palakonda village of Srikakulam District to Perala village about 90 years back. The father of the appellant i.e. Benni @ Venkaiah married with Taharunnisa, (Muslim Woman) and blessed with six children. Further he has also stated that the respondents conducted the local enquiry behind

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the back of the appellant and the respondent have not given any opportunity to him for produce the documents in support of his community claim.

II. The District Level Scrutiny Committee has observed that the father of the appellant Sri Parabathina Luther Banny @ Venkaiah in his written statement before the Tahsildar, Chirala on 10-5-2007 himself committed that his brother Parabathina Luther Paul and all his children belongs to Mala by caste and also he did not know the customs and traditions of Konda Kapu. The cousin of the appellant Sri Parabatina Nehemia S/o Parabathina Luther Paul who is working as Special Branch S.I Chirala belongs to BC-C. It is also observed that the Tahsildar, Zarugumalli who enquired into the matter has reported that during his enquiry, the elders of the village stated that 'Parabathina' surname people living in Yedlurupadu village belongs to Harijana Mala community only. The Tahsildar further reported that, he verified the Birth and Death Registers of Yedlurupadu village, having surname 'Parabathina' belongs to Mala community. Further it is also observed that this family migrated from Srikakulam District. The father of the individual entered the caste of his children as Konda-Kapu in School Record and continued throughout their education career. Moreover all his children has got inter-caste marriages, but all are obtained Konda-Kapu caste certificates fraudulently by misrepresentation of facts. As per G.O. Ms.No.122 S.W. (J) Dept. dt:06.09.1997, in respect of 'Konda kapu' (ST) only all Mandal Revenue Officers not below the rank of Dy. Tahlidar in the Scheduled Areas of the State and all Revenue Officers not below the rank of R.D.O./Asst. Collector/Sub-Collector in the non-Scheduled Areas of the State in whose jurisdiction Scheduled Tribe candidate claims nativity is empowered to issue caste certificate. But, in this case, Chirala Mandal is not a Scheduled area. As such the certificate obtained by the above individual from Mandal Revenue Officer, Chirala is against the said order and liable for cancellation. But the appellant has not produced any relevant documents expect school records in support of his ST-Konda Kapu community claim. Basing on the recommendations of the District Level Scrutiny Committee, and after verification of documentary evidences available on record, the District Collector, Prakasam cancelled the Konda Kapu-ST caste certificate.

III. Under section 6 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

IV. The Appellate Authority is observed that during the course of hearing of the case, the appellant submitted his arguments as per his grounds in appeal petition and stated that the lower authority failed to observe that his father belongs to Konda Kapu Community as per his school records and his relatives both maternal and paternal side are Konda Kapu and as such he also belongs to Konda Kapu Community. On verification of the documents and the grounds of appeal and Pare wise remarks as well as the other documents and material available on the record it is noticed that except the above contention nothing was placed for appreciation of the case of the appellant and he failed to produce any evidence that his father belongs to ST Community and further noticed as per the report of Forensic Science Laboratory, Hyderabad the school record of the father of the appellant in the admission particulars with regard to the caste is tampered and further there is no evidence that the maternal and paternal side relatives of the appellant are Konda Kapu. It is further brought to the notice that the certificate earlier issued to the individual in a routine manner and the same was cancelled after conducting detailed and thorough enquiry into the caste status of the individual. That as per the Act 16/1993, the burden of proof lies on the appellant, thus it is the responsibility of the appellant to produce necessary evidence and

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documents to claim the same. In the instant case that the appellant except relaying the evidence filed before the lower authority failed to produce any additional material more particularly the evidence of his father caste and his relatives' caste for re- appreciation of the case on hand. As seen from the record the lower authority passed the order after reasonable appreciating the evidence available on record as per law which deserves no interference. That taking consideration of the above and the material available on the record that it can be concluded that the lower authority passed the order as per law which does not deserve any interference.

6. In view of the several reasons recorded in the paras supra, the Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), decide that the appeal petition filed by Sri Parabathina Mothilal, S/o Luthar Binny @ Venkaiah, does not deserve any interference. Hence, Proceedings of the District Collector, Prakasam issued vide Rc.C4/559/2007, dt. 17.11.2008, is hereby upheld and the Appeal Petition filed by Sri Parabathina Mothilal, S/o Luthar Binny @ Venkaiah, is hereby dismissed and the Certificate issued by the then Mandal Revenue Officer, Chirala is deemed to be cancelled .

7. The District Collector, Prakasam is directed to take necessary consequential action in the matter.

8. The records (containing Rc.C4/559/2007, dt.20.11.2010, NF: 1-13 pages & CF: 1-155 pages) received from the District Collector, Prakasam through in the reference 4th read above, are returned herewith in original to the District Collector, Prakasam and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

S.S. RAWAT
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector,
Prakasam District.(Ongole)
(with original records) (BY RPAD)

Sri Prabathina Mothila, S/o P. Lutha Binny@
Venkaiah,
Occ: Development Officer,
O/o Senior Divisional Manager,
LIC of India, Ongole Branch,
Prakasam District.

M/s. Nimmagadda Satyanarayana,
Ch. Venkateswarlu & others, Advocates,
H.No.8-13/2, Konark Theatre Road,
Maithri Nagar, Dilsukhnagar, Hyderabad- 500060.

The Senior Divisional Manager,
LIC of India, Ongole Branch, Prakasam District.
Copy to :
The Director, TCR& TI, AP, Amaravathi.
The PS to M(SWE & TWE).
The PS to Principal Secretary(SW&TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER